SINGLE BENCH

C.S.1001-

(1) (5)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

W.P.No...../2006

PETITIONER

Savitri Bai
W/o Santu Singh Kanwan
Aged about- 38 years
Sarpanch of Gram Panchayat
Jharna, Village- Jharna.
Distt- Janjgir-Champa (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh
Through: Secretary Panchayat
Department, D.K.S. Bhawan,
Raipur (C.G.)

2. Collector/Additional Collector
District Janjgir-Champa(C.G.)

3. Chief Executive Officer,
Janpad Panchayat,
Bamhnidih, District- Janjgir-
Champa (C.G.)

4. GramPanchayat- Jharna,
Through : Secretary,
Vilalge- Jharna, Distt-
Janjgir-Champa (C.G.)

5. Shri Narayan Prasad Rathore
Up-Sarpanch Gram Panchyat
Jharna, Village- Jharna,
Distt- Janjgir-Champa (C.G.)

3526/06
P.R. No.....
Presented by Shri Anand Pandey
dated 12/12/06

RECEIVED-COPY
12/7/06
CLERK TO A. G. BILASPUR

APARNA MALVIYA
11/07/06

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 3467/06 **सन्** **200**

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	04.09.2006 Shri Prateek Sharma, Counsel for the petitioner. Shri N.K. Agrawal, Dy. A.G. for the State and Collector on advance copy. Heard on admission. Learned counsel for the petitioner submits that by way of impugned order (Annexure P-5), Additional Collector, District Janjgir-Champa, in Enquiry Proceeding No.19/A-121/05-06, on 09/06/2006 directed for holding the meeting of Gram Sabha pertaining to the earlier resolution of Gram Panchayat, in which, the recommendations about selection of *Panchayat Karmi* has been made by the Panchayat. His submission is that earlier resolution of the Gram Panchayat dated 23/9/2005 was not in accordance with law and in pursuance of the aforesaid resolution, no further action for confirmation etc. by the Gram Sabha can be done. He also submits that there is no necessity of calling the meeting of Gram Sabha. He further submits that the order passed by the Additional Collector is without jurisdiction. It appears that some complaint was made to the Additional Collector about non-prosecuting with the matter of appointment of *Panchayat Karmi* by the Sarpanch and on the said complaint; the enquiry was conducted by calling the Sarpanch (petitioner herein), Up-Sarpanch and Secretary of the Gram Panchayat. The records pertaining to the appointment of *Panchayat Karmi* was also called by the Additional Collector. It further comes that the Sarpanch (petitioner herein) disclosed in the enquiry that in the matter of	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 3467/01 **सन्** 200

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 2	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

appointment of *Panchayat Karmi*, she was not heard and the Panchayat, unanimously selected one Tarachand Rathore for appointment to the said post, therefore, she is not calling the meeting of the Gram Sabha. She submitted that she is not agreeing with the selection of the said candidate. The Additional Collector, after conducting the entire enquiry, came to the conclusion that by majority of votes, the name of Tarachand Rathore was passed in the meeting and all the Panchas, except the Sarpanch have signed the proceedings of the meeting and his name was recommended for appointment. Holding all this, the Additional Collector passed the impugned order by exercising jurisdiction under Section 86 of the *C.G. Panchayat Raj Adhiniyam, 1993* and directed for calling the meeting of Gram Sabha, in consequence of which, the impugned notice (Annexure P-6) was issued.

Sub-section 1 of Section 86 provides that the State Government or the prescribed authority may, by an order in writing, direct any Panchayat to perform any duty imposed upon it, by or under this Act, or by or under any other law for the time being inforce or any work as is not being performed or executed, as the case may be, by it and the performance or execution thereof by such Panchayat is, in the opinion of the State Government or prescribed authority, necessary in public interest.

If the Additional Collector has passed an order for performing the duty of Panchayat in relation to completion of procedure of appointment of *Panchayat Karmi*, it cannot be said

(छत्तीसगढ़) लघु प्रयोग
उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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प्रकरणों डिग्री में लिपिक सहित्योपाक्त प्रयोग संख्या के

आदेश पत्रक छत्तीस संख्यांक प्रयोग

प्रयोग संख्यांक कार्यालय प्रयोग संख्यांक

मामला क्रमांक WP-3467/06 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

that either the order passed by the Additional Collector is without jurisdiction or the same has been passed in violation of any law for the time being inforce.

There is no merit in the arguments advanced by learned counsel for the petitioner. The petition has no merit. The same fails and is summarily dismissed without notice to the other side.

It is made clear that while disposing of this petition, this Court has not expressed any opinion regarding the proceedings of the appointment of proposed *Panchayat Karmi* namely Tarachand Rathore nor this Court has commented upon the merits of the resolution of the Gram Panchayat and the petitioner as well as any other party shall be free to challenge all this at the appropriate stage in accordance with the provisions of law.

Certified copy as per rules.

Sd/-
Sunil Kumar Sinha
Judge

Shyam

(पीछे देखिये)